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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/547,990	06/09/2006	Erkki Kauranen	0933-0255PUS1	7688

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EXAMINER	
CHEN, CATHERYNE	
ART UNIT	**PAPER NUMBER**
1655	

NOTIFICATION DATE	DELIVERY MODE
02/25/2008	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

Office Action Summary	Application No.	Applicant(s)	
	10/547,990	KAURANEN, ERKKI	
	Examiner	Art Unit	
	Catheryne Chen	1655	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *17 December 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-16* is/are pending in the application.

4a) Of the above claim(s) *13* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-12 and 14-16* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *Sept. 9, 2005, Dec. 29, 2005*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Currently, Claims 1-16 are pending. Claims 1-12, 14-16 are examined on the merits.

Election/Restrictions

Claim 13 is withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected group, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on Dec. 17, 2007.

Applicant's election with traverse of Group I (Claims 1-10, and newly added claims 14-16) and the species sunflower oil and white oil, in the reply filed on Dec. 17, 2007 is acknowledged. The traversal is on the ground(s) that it would not be undue burden to search all of the claims. This is not found persuasive because a search of one group is not coextensive with the search of the other groups. Thus, it would be burdensome to search the entire claims. Group I, claim(s) 1-12, drawn to a skin care product. Group II, claim(s) newly amended 13, drawn to a method for the treatment of prevention of psoriasis. The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: The composition of grape seed oil is involved in vision (see http://www.nutrasanus.com/grapeseed.html). The skin care product claims are not involved in vision; therefore, the reference shows that the claimed composition has a

different use then the uses claimed in groups I-II. Thus, the reference shows a lack of unity.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-12, 14-16 are indefinite because it is not clear what is exactly encompassed by "derivative" of tall oil fatty acid. Page 6 of applicant's specification gives a list of tall oil fatty acids derivatives but only states that the list is possible examples of derivatives. Since applicant's definition of "derivative" is opened ended, what is encompassed by "derivative" cannot be definitely determined. Numerous compounds could possibly be derived from tall oil fatty acids including simple elements like carbon and hydrogen. It is not clear what compounds would still be considered "derivatives" in keeping with this limitation in the claims and what is taught in applicant's specification.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3-12, 14 are rejected under 35 U.S.C. 102(b) as being anticipated by Bouillon et al. (US 4406880).

Bouillon et al. teaches cosmetic application composition (Claim 1), in a solution, emulsion, gel, a dispersion, suspension or foam (claim 2) with fatty acid triglyceride as tall oil and sunflower oil (claim 4), glycerol (claim 5), and titanium oxide from 0.001 to 0.2% by weight (claim 6). Glycerol at 10% (column 22, Example A4). Sunflower oil at 5% (column 23, Example B3).

Claims 1-12, 14-16 are rejected under 35 U.S.C. 102(b) as being anticipated by Boothroyd et al. (US 5250289).

Boothroyd et al. teaches sunscreen composition of 9% isopropyl myristate as tall oil, 6% liquid paraffin, 3% sunflower oil, 2% glycerin, 10% titanium dioxide (column 5, Example 6). A sunscreen composition emulsion of 0.5 to 30% by weight of titanium dioxide, 10 to 50% by weight of sunflower oil (Claim 1).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham* v. *John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1-12, 14-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Boothroyd et al. (US 5250289).

Boothroyd et al. teaches sunscreen composition of 9% isopropyl myristate as tall oil, 6% liquid paraffin, 3% sunflower oil, 2% glycerin, 10% titanium dioxide (column 5, Example 6). A sunscreen composition emulsion of 0.5 to 30% by weight of titanium dioxide, 10 to 50% by weight of sunflower oil (Claim 1). However it does not teach all the claimed concentrations.

The reference also does not specifically teach adding the ingredients in the amounts claimed by applicant. The amount of a specific ingredient in a composition is clearly a result effective parameter that a person of ordinary skill in the art would routinely optimize. "[W]here the general conditions of a claim are disclosed in the prior art, it is not inventive to discover the optimum or workable ranges by routine experimentation." In re Aller, 220 F.2d 454, 456, 105 USPQ 233, 235 (CCPA 1955). Thus, optimization of general conditions is a routine practice that would be obvious for a person of ordinary skill in the art to employ. It would have been customary for an artisan of ordinary skill to determine the optimal amount of each ingredient to add in order to best achieve the desired results. Thus, absent some demonstration of unexpected results from the claimed parameters, this optimization of ingredient amount would have been obvious at the time of applicant's invention.

Conclusion

No claim is allowed.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catheryne Chen whose telephone number is 571-272-9947. The examiner can normally be reached on Monday to Friday, 9-5 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terry McKelvey can be reached on 571-272-0775. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Catheryne Chen,
PhD, Esq.
Patent Examiner
Art Unit 1655

/Susan Coe Hoffman/
Primary Examiner, Art Unit 1655

(b) at least one additional inhibitor of NFκB activation in an amount that is effective to inhibit NFκB activation in the muscle cells of said subject, said additional inhibitor of NFκB activation being capable of reducing NFκB activation at a predetermined second level that is different from the predetermined first level.